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DEPARTMENT OF ENVIRONMENTAL HEALTH

COMMUNITY HEALTH DIVISION

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ELIZABETH POZZEBON
Assistant Director

NOTICE OF INADEQUACY OF EYE GNAT ABATEMENT MEASURES

NOTICE OF REQUIREMENT TO ABATE EYE GNATS UPON TERMINATION OF FARMING

June 6, 2012

Bornt & Sons Inc.
c/o Alan Bornt, President
2307 E Us Highway 98
Holtville, CA 92250-9543

Subject: Bornt Farms, Jacumba CA

Dear Mr. Bornt:

In late 2011, with your consent, the County of San Diego Department of Environment Health prepared the "Bornt Farms 2012 Eye Gnat Nuisance Prevention Plan" [2012 Plan]. The 2012 plan was developed in consultation with you and with the University of California Cooperative Extension, to address eye gnat abatement in the context of your anticipated calendar year 2012 farming activity. You signed that plan on December 30, 2011 (Attachment 1) as a commitment to the Jacumba community. The 2012 Plan is intended to prevent public nuisance conditions, against which the County would have both civil judicial enforcement authority and administrative abatement authority.

We have two significant problems with the 2012 Plan: first, you have not consistently implemented that plan, and second, the plan does not address your intention (communicated to us orally) to cease farming in Jacumba within a few weeks due to water supply constraints.

Eye gnat nuisance impacts have been aggravated by your failure to fulfill Section 3b of the 2012 Plan:

Traps on the Farm will be monitored and maintained (i.e. addition of new solution, replace broken parts, etc.) by Bornt Farms on a weekly basis from February 1 through November 1.

Neglect of Section 3b was noted on the May 23 and May 29, 2012 weekly inspection reports (attachment 2 and 3). Additionally, a failure to fulfill Section 1d of the plan was noted on the May 29, 2012 weekly inspection report. Section 1d requires:

Buffer crops will be treated with a University of California Cooperative Extension recommended conventional pesticide on a weekly basis from April 1st until October 31st. The current recommendations include rotating with carbaryl, acephate and cyfluthrin. Current pesticide records must be available for reviewing on the farm during weekly inspections or faxed (858) 571-4268 or emailed to County Vector Control.

The County is even more concerned with the reservoir of eye gnat eggs and larvae that have built up in the soils on this farm during your operations. Those eggs and larvae will remain in the soil when you cease operations. If your trap lines and flight barriers are removed and if buffer crop maintenance and treatment are halted, other measures must be implemented to control eye gnats. If no new measures are put in place, we anticipate nuisance-level eye gnat impacts in the community for a period of at least several weeks or months.

To fulfill the commitments in your current plan, you must do the following:

1. Immediately, ensure that control traps be maintained and serviced weekly with the addition of new solutions.
2. Immediately, apply a conventional pesticide to buffer crops on a weekly basis and submit proof of application to Vector Control by email or fax.
3. Maintain watering of buffer crops.
4. Restore and maintain Best Management Practices identified in the 2012 Plan until an acceptable exit plan is implemented.

If you plan to halt any eye gnat abatement measures in your current plan when you cease active farming, you must substitute other effective measures.

You should anticipate County nuisance abatement enforcement action if you cease farming in Jacumba without putting adequate eye gnat abatement measures in place, and a public nuisance results.

We therefore request and urge you to submit a specific exit plan to DEH by June 15, 2012, describing your plans to control eye gnat emergence and migration into the community when active farming operations cease. Until operations cease and the exit plan is implemented, comply with the existing 2012 plan.

Thank you. If you have any questions, please call me at (858) 694-3595.

Sincerely,



REBECCA LAFRENIERE, Chief
Community Health Division

- Attachments:
1. Bornt Farms 2012 Eye Gnat Nuisance Prevention Plan
 2. May 23, 2012 Weekly Inspection Report
 3. May 29, 2012 Weekly Inspection Report

cc: Jacumba Valley Ranch
Rod Lorang, County Counsel

BORNT FARMS

2012 EYE GNAT NUISANCE PREVENTION PLAN

In accordance with San Diego County Code of Regulatory Ordinances Title 6, Division 4, Chapter 2, Section 2, and in consultation with the University of California Cooperative Extension, it is my/our intention to prevent and control eye gnats on the Bornt Farm located in Jacumba utilizing the following prevention method(s):

PREVENTION METHODS

Bornt Farms will implement the following prevention methods during 2012:

1) *Buffer Crops*

- a. Approximately 100 feet, equivalent to twelve rows of production, in from the outer farm edge that borders the community, not including south of Old Highway 80, will be used exclusively for an eye gnat exclusion zone. See Attachment 1 for required locations.
- b. The mature plant type will be recommended by the farm and approved by County Vector Control.
- c. Height:
 - o The buffer crop can be cut as short as necessary so that the crop does not need constant cutting or mowing. If the plants in the buffer crop are cut or trimmed they need to be cut in rotation so that there are at least six full rows parallel with the community that are 2-4 feet or taller at any given point in time after April 1, to allow for treatment by conventional equipment, or
 - o Prior to April 1, if the buffer crops do not meet the 2 feet minimum height farmer will:
 - treat buffer crop with conventional pesticides and production crops will be treated weekly with an organic pesticide, or
 - not plant production crops within 1,000 feet from edge of town.
- d. Buffer crops will be treated with a University of California Cooperative Extension recommended conventional pesticide on a weekly basis from April 1st until October 31st. The current recommendations include rotating with carbaryl, acephate and cyfluthrin. Current pesticide records must be available for reviewing on the farm during weekly inspections or faxed (858) 571-4268 or emailed to County Vector Control.
- e. Conventional pesticide applications will be kept at acceptable distances from organic crop production to prevent drift.
- f. Separate application equipment will be used to treat organic crops.

Buffer crops will be maintained and watered as identified in 1.a regardless of crop production status.

2) *Barriers*

- a. A barrier between the farm and the community will be maintained for the entire length of crop production. The barrier will be made of a tightly woven cloth or plastic (similar to those used for erosion or dust control), a minimum of 36-inches in height and parallel with the border of the community. See Attachment 1 for required locations.

December 20, 2011

BORNT FARMS 2012 EYE GNAT NUISANCE PREVENTION PLAN

3) Trapping

- a) Eye gnat trapping will occur no higher than 36 inches from ground surface.
- b) Traps on the farm will be monitored and maintained (i.e. addition of new solution, replace broken parts, etc.) by Bornt Farms on a weekly basis from February 1 through November 1.
- c) See Attachment 1 for required locations. Placement of traps will be as follows:
 - i. A double row of collar traps 10 feet apart and parallel;
 - ii. The first row of collar traps will be 10 feet from the barrier and the second row that parallels the first will be staggered. Both rows will be within the treated buffer crop, not adjacent to the barrier; and
 - iii. Additional traps will be added by the farmer as determined necessary by the Vector Control Program. The farmer can increase the number of traps for additional deterrence.
- d) The Vector Control Program will conduct monitoring trapping in a grid that extends 1,000 feet into the community beginning in the community at the southern most end of farm production to the northern most end of the community by the railroad tracks. The density at present is 4 traps per 1,000 linear feet. In addition, the Vector Control Program will place monitoring traps at two specific locations with concentrated eye gnat populations; the spa and the school. The Bornt Farm designed trap is highly effective, and will be used for community monitoring trapping. See Figure 1 for approximate locations.
- e) The Vector Control Program will monitor and count the total number of eye gnats in the community monitoring traps weekly.
- f) The Vector Control Program Monitoring trapping will begin when production crops are first planted and be continued throughout 2012, until all production crops are harvested and planting ceases.

CULTURAL CONTROL METHODS

1) Dry Period

- a) Harvest of production crops will be complete and irrigation to production crops will cease by June 15 and not resume until August 15.
 - b) Fresh organic matter will not be tilled under into the soil.
 - c) Organic matter production will be reduced by drying the cut crop or (herbicide) burning the crop residue on the bed.
 - d) Weeds will be controlled by herbicides or by hand; tilling of weeds is prohibited.
 - e) Production crops will not be planted south of Old Highway 80.
- 2) Drying of organic matter means the cut crop flakes when crushed or is (herbicide) burnt on the bed.
- 3) Weed control outside the crop will be controlled with herbicides or by hand, not tilling.

SELF REPORTING

Bornt Farm agrees to report the following to the County's Vector Control Program:

- Initial planting of the production crops one week prior to planting.

**BORNT FARMS
2012 EYE GNAT NUISANCE PREVENTION PLAN**

All of the measures in this Plan are subject to inspection by County Vector Control staff prior to Bornt farms planting production crops and at any time during 2012. County Vector Control Program will conduct weekly, random inspections to monitor compliance with the Plan.

County Vector Control Program will post inspection reports, enforcement notices and this Plan on its webpage.

Any requests to make changes to this Plan must be made in writing from Bornt Farms to County Vector Control Program and County Vector Control will respond to the request within 5 working days of receiving the request.

Nothing in this plan precludes the farmer from implementing additional measures.

Alan Bornt



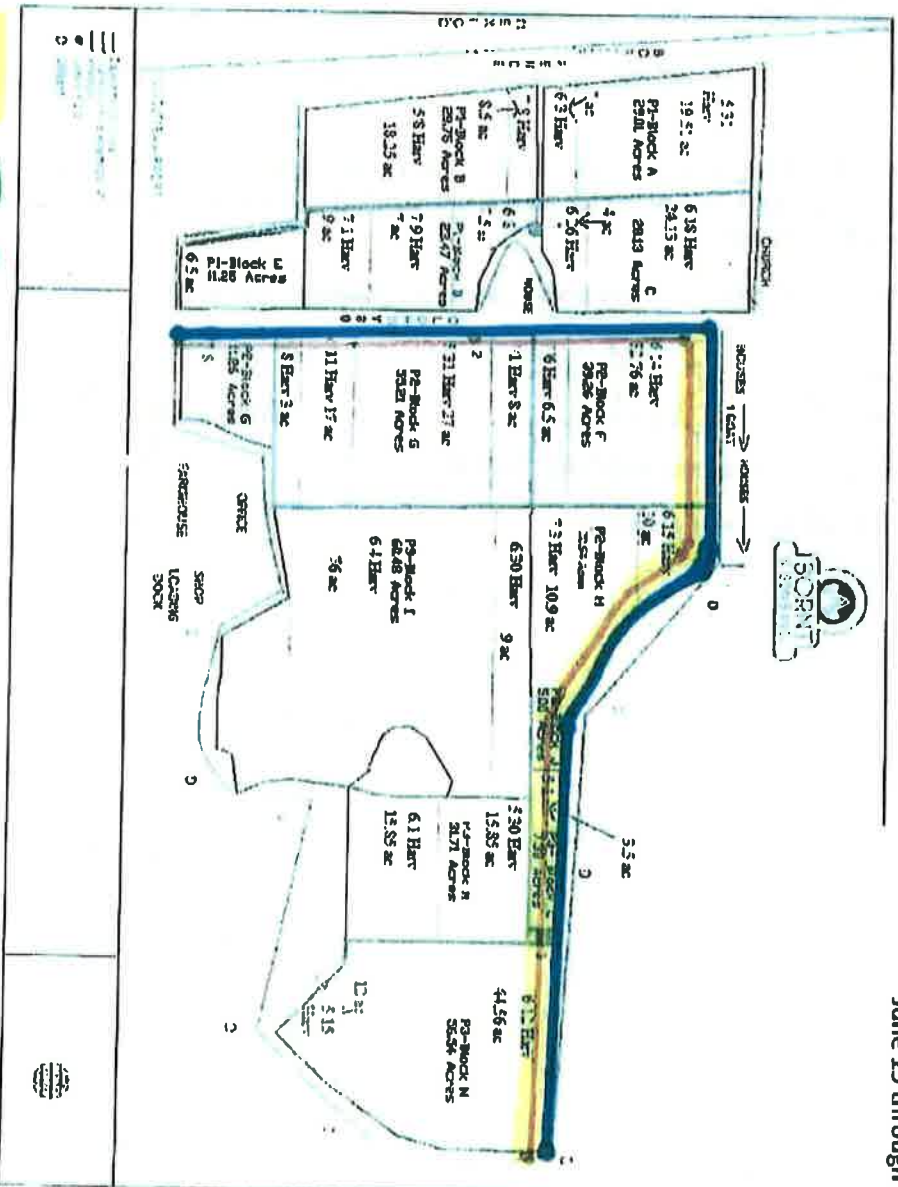
Date:

12/30/11

Attachment 1. Buffer Crop, Barrier and Collar Trap Map

Figure 1. VCP Monitoring Trap Locations

Draft 2012 Attachment 1
 Dry Period/No Irrigation (except Buffer Crops)
 June 15 through August 15



Buffer Crop
 Barrier Cloth
 Collar Traps

AK



Figure 1

2012 Bornt Farm Eye Gnat Nuisance Prevention Plan

Bornt Farm, Jacumba
Eye Gnat Nuisance Prevention Plan (2012)
Inspection Report

Mark Lee

DATE May 23, 2012

PREVENTION METHODS

Buffer Crops (Refer to 2012 Plan, Attachment 1 for locations)

	Yes	No	N/A	Violation
100 feet from the outer farm edge that borders the community	X			
Twelve total rows of production dedicated to buffer crops.	X			
Plant type approved by County Vector Control.	X			
Conventional pesticide applied weekly, records available during weekly inspection(Apr. 1 - Oct. 31)	X			
A minimum of six full rows parallel with community that are 2-4 feet or taller		X		
Prior to April, if buffer crops are not at a minimum 2 feet in height the farmer will either:				
treat buffer crops with conventional pesticides and treat production crops weekly with organic pesticides	X			
or				
plant production crops at minimum 1,000 feet from the edge of town.		X		
Buffer Crops maintained regardless of crop production.	X			

Barriers (Refer to 2012 Plan, Attachment 1 for locations)

Erosion or dust barrier cloth is a minimum of 36 inches in height. Placement is consistent with Attachment 1.	X			
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Trapping (Refer to 2012 Plan, Attachment 1 for locations)

Traps will be at or below 36 inches from ground level.	X			
Traps on farm will be monitored and maintained by Bornt Farms weekly(Feb. 1 -Nov. 1).		X		X
A double row of collar traps are 10 feet apart and parallel with community border.	X			
First row of collar traps are 10 feet from erosion barrier.	X			
Second row of collar traps are parallel with first row and staggered.	X			
First and second rows of collar traps are within the treated buffer crop and extend from the southern most end of the crop production to the northern most end of crop production.	X			
Traps are in and will remain in place when production crops are planted and harvested.	X			

CULTURAL CONTROL METHODS

Dry Period

Harvest of production crops will be complete and irrigation to production crops will cease by June 15 and will not resume until August 15.			X	
Irrigation is prohibited in dry period			X	
Fresh organic matter is not tilled under the soil	X			
Cut crop is reduced by drying until it flakes when crushed prior to tilling.	X			
Weed control is controlled by herbicides, by hand, or cutting machine (not tilling).	X			
Production crops will not be planted south of Old Highway 80.	X			

SELF REPORTING

On January 25, 2012, Bornt Farm Management provided notice to the County's Vector Control Program that February 1, 2012 was the estimated date for the initial planting of production crops in compliance with the 2012 Prevention Plan Self Reporting requirement.

COMMENTS:

Buffer crops at north end of farm on portions of blocks M and N are not 2 feet, also these crops appear to be drying out, the ground was dry and there was some wilting of these buffer crops. Farmer will continue to treat production crops with organic pesticides until all buffer crops are a minimum of 2 feet tall. Also, all of the buffer crops must be maintained and watered according to the 2012 Eye Gnat Nuisance Prevention Plan.

A "use report" for the week of May 14-May 18 was provided for the treatment of the production crops with organic pesticides. The buffer crop was treated with conventional pesticides on May 24, 2012, this treatment corrects the violation from the previous weeks inspection of non-compliance. The "use report" for this latest application will be provided to Vector control staff on May 25, 2012.

The barrier cloth was in good condition and consistent with Attachment 1 of the 2012 Eye Gnat Nuisance Prevention Plan. However, the collar traps which were checked by Vector control staff were dry and did not have sufficient liquid bait. This is a violation of Attachment 1 of the 2012 Eye Gnat Nuisance Prevention Plan. The plan requires that "Traps on the farm will be monitored and maintained (i.e. addition of new solution, replace broken parts, etc.) by Bornt Farms on a weekly basis from February 1 through November 1." [Page 2, Section 3, item b]

Weather was breezy, mild and sunny.

Date:

5/23/12

Inspector:

Mark J. Lee

Bornt Farm, Jacumba
Eye Gnat Nuisance Prevention Plan (2012)
Inspection Report

Chris Conlan/ Ron Ramos

DATE May 29, 2012

PREVENTION METHODS

Buffer Crops (Refer to 2012 Plan, Attachment 1 for locations)

	Yes	No	N/A	Violation
100 feet from the outer farm edge that borders the community	X			
Twelve total rows of production dedicated to buffer crops.	X			
Plant type approved by County Vector Control.	X			
Conventional pesticide applied weekly, records available during weekly inspection(Apr 1 - Oct 31).		X		X
A minimum of six full rows parallel with community that are 2-4 feet or taller	X			

Prior to April, if buffer crops are not at a minimum 2 feet in height the farmer will either:

treat buffer crops with conventional pesticides and treat production crops weekly with organic pesticides			X	
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or

plant production crops at minimum 1,000 feet from the edge of town.			X	
Buffer Crops maintained regardless of crop production.	X			

Barriers (Refer to 2012 Plan, Attachment 1 for locations)

Erosion or dust barrier cloth is a minimum of 36 inches in height. Placement is consistent with Attachment 1.	X			
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Trapping (Refer to 2012 Plan, Attachment 1 for locations)

Traps will be at or below 36 inches from ground level.	X			
Traps on farm will be monitored and maintained by Bornt Farms weekly(Feb. 1 -Nov. 1).		X		X
A double row of collar traps are 10 feet apart and parallel with community border.	X			
First row of collar traps are 10 feet from erosion barrier.	X			
Second row of collar traps are parallel with first row and staggered.	X			
First and second rows of collar traps are within the treated buffer crop and extend from the southern most end of the crop production to the northern most end of crop production.	X			
Traps are in and will remain in place when production crops are planted and harvested.	X			

CULTURAL CONTROL METHODS

Dry Period

Harvest of production crops will be complete and irrigation to production crops will cease by June 15 and will not resume until August 15.			X	
Irrigation is prohibited in dry period			X	
Fresh organic matter is not tilled under the soil	X			
Cut crop is reduced by drying until it flakes when crushed prior to tilling.	X			
Weed control is controlled by herbicides, by hand, or cutting machine (not tilling).	X			
Production crops will not be planted south of Old Highway 80.	X			

SELF REPORTING

On January 25, 2012, Bornt Farm Management provided notice to the County's Vector Control Program that February 1, 2012 was the estimated date for the initial planting of production crops in compliance with the 2012 Prevention Plan Self Reporting requirement.

COMMENTS:

Buffer crops continue to show signs of drying out with large patches beginning to turn brown and will lose their effectiveness if not watered soon. All of the buffer crops must be maintained according to the 2012 Eye Gnat Nuisance Prevention Plan (Plan). Note: buffer crops at north end of farm on portions of blocks M and N are a minimum of 2 feet tall.

The barrier cloth was in good condition and consistent with Attachment 1 of the 2012 Eye Gnat Nuisance Prevention Plan. However, the collar traps were dry and contained no liquid bait solution. This is a violation of the 2012 Eye Gnat Nuisance Prevention Plan, the plan requires that "Traps on the farm will be monitored and maintained (i.e. addition of new solution, replace broken parts, etc.) by Bornt Farms on a weekly basis from February 1 through November 1." [Page 2, Section 3, item b]

Vector control staff was not provided with a pesticide use report for treatment of the buffer crops for the week of May 29, 2012 which is a violation of the 2012 Plan. The Plan requires that "pesticide records must be available for reviewing on the farm during weekly inspections or faxed or emailed to County Vector Control." [Page 1, Section 1, item d]

Weather was hot and sunny with a little wind. Eye gnats were observed in small numbers (less than 5) flying around at most trap sites within the town of Jacumba.

Date:

5/26/12
5/29/12 CAC

Inspector:

[Signature]